

## IOWA BOARD OF EDUCATIONAL EXAMINERS

---

IN THE MATTER OF:	)	Case No. 05-20
	)	DIA No. 06BEE010
	)	License No. 354166
JONNIKA DANIELLE OHRT,	)	
	)	Final Order
Respondent.	)	Revising Proposed Decision
	)	

---

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. The hearing was held before Administrative Law John M. Priester on March 15, 2006. On April 10, 2006, Judge Priester issued a proposed decision. The proposed decision was served upon the Respondent, the Assistant Attorney General prosecuting the case, and the Board. The Board considered the proposed decision at its regular meeting on May 3, 2006, and initiated review of the proposed decision pursuant to 282 Iowa Admin. Code 11.28(2), to consider (a) whether the licensee's conduct violated the Board's rules of sufficient magnitude to justify discipline and (b) whether the proposed sanction is appropriate in light of the findings.

On August 7, 2006, the Board conducted its review of the proposed decision. Following consideration of the proposed decision and the arguments presented within briefs submitted on behalf of the Respondent and the State, the Board approved a motion to revise the sanction imposed upon the Respondent to impose a three-year suspension of the Respondent's license and placing conditions upon reinstatement. Therefore, the final paragraph of the proposed decision, setting forth the Decision and Order, is rejected and replaced with the following:

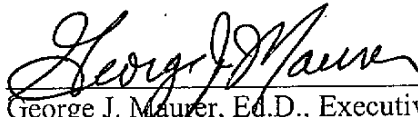
### DECISION AND ORDER

Although the evidence submitted at hearing failed to establish that the Respondent engaged in a sexual relationship with J.B., the Respondent clearly failed to exercise professional judgment and failed to maintain appropriate professional boundaries and engaged in an inappropriate relationship with J.B. through her ongoing communication and interaction this student. Based upon these findings of misconduct,

IT IS THEREFORE, ORDERED that the Respondent's license (No. 354166) shall be **SUSPENDED with no possibility of reinstatement for three (3) years following August 7, 2006**, the date of Board action approving this order. In order to be eligible for reinstatement of her license at the conclusion of the minimum period of suspension, the Respondent must fulfill the following requirements:

- a. The Respondent shall undergo a comprehensive evaluation by a licensed mental health professional pre-approved by the Board at her own expense regarding professional boundary issues. The respondent shall provide the evaluator with a copy of this decision.
- b. The Respondent shall sign a release which will enable all individuals involved in Respondent's evaluation and treatment to communicate with and provide written information to the Board. The evaluator shall provide the Board with a written report containing recommendations for treatment, therapy or additional training or education. The Respondent shall comply with all recommendations made by the evaluator.
- c. Reinstatement proceedings may be initiated by the Respondent making an application for reinstatement, pursuant to Board rule 282 I.A.C. 11.34. The application shall state facts which, if established, shall be sufficient to prove:  
1) that the Respondent has complied with the terms of this order; and 2) that it would be in the public interest for Respondent's license to be reinstated.

Dated this 30 day of August, 2006.



George J. Maurer, Ed.D., Executive Director  
On behalf of the Board

Copies to:

Respondent's Attorney  
Assistant Attorney General

## IOWA BOARD OF EDUCATIONAL EXAMINERS

---

IN THE MATTER OF:	)	Case No. 05-20
	)	DIA No. 06BEE010
JONNIKA DANIELLE OHRT,	)	License No. 354166
	)	
Respondent.	)	Order for Review of
	)	Proposed Decision &
	)	Briefing schedule

---

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. The hearing was held before Administrative Law John M. Priester on March 15, 2006. On April 10, 2006, Judge Priester issued a proposed decision. The proposed decision was served upon the Respondent, the Assistant Attorney General prosecuting the case, and the Board.

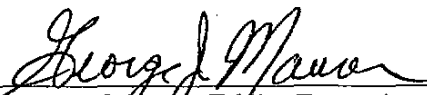
The Board considered the proposed decision at its regular meeting on May 3, 2006. After examining the proposed decision, the Board approved a motion to initiate review of the proposed decision pursuant to 282 Iowa Admin. Code 11.28(2). Specifically, the motion called for examination of the following issues:

- a) whether the licensee's conduct violated the Board's rules of sufficient magnitude to justify discipline;
- b) whether the proposed sanction is appropriate in light of the findings.

### ORDER AND BRIEFING SCHEDULE

**THEREFORE**, the Board will review the proposed decision. Pursuant to Board rule 282 I.A.C. 11.28(6), counsel for the Respondent and the State may submit written briefs to the Board addressing the issues set forth above. Each party may file an initial brief with the Board on or before June 12, 2006; each party may file a reply brief on or before July 10, 2006. The Board will conduct its review of the proposed decisions and briefs on August 7, 2006.

Dated this 16 day of MAY, 2006.

  
George J. Maurer, Ed.D., Executive Director  
On behalf of the Board

ORIGINAL

IOWA BOARD OF EDUCATIONAL EXAMINERS

RECEIVED  
EXECUTIVE DIRECTOR  
BOARD OF EDUCATION EXAMINERS

IN THE MATTER OF:

JONNIKA DANIELLE OHRT

Respondent

License No. 354166

)  
)  
)  
)  
)  
)  
)

DIA NO. 06BEE010

CASE NO. 05-20

PROPOSED DECISION

APR 11 2006

On June 10, 2005, Daniel Mark Versteeg, Superintendent of the Ventura Community School District (Complainant), filed a Complaint against Jonnika Danielle Ohrt (Respondent) with the Iowa Board of Educational Examiners (Board). An investigation was conducted and on November 4, 2005, the Board found probable cause to conduct a disciplinary hearing to determine whether the Respondent had violated 282 IAC 25.3(1)(c), (e)(3) & (e)(4). The factual issues, as identified by the Board in its Hearing Notice, was whether the Respondent engaged in an inappropriate romantic and/or sexual relationship with a student during the 2004-2005 school year.

On November 10, 2005, the Board extended the 180-day time limit for issuance of a final decision. A Hearing Notice was issued on January 31, 2006. The Respondent filed an answer on February 8, 2006 denying the allegations made in the Complaint.

The hearing was held before the undersigned administrative law judge on March 15, 2006 at 9:00 a.m. Assistant Attorney General Carolyn Olson represented the State of Iowa. The Respondent, Jonnika Danielle Ohrt, was represented by attorney Christy Aumer. The hearing was tape-recorded.

THE RECORD

The record includes the Complaint; the Order extending the 180 day time period, issued 11/10/05; the Hearing Notice, issued 1/23/05; Corrected Notice of Hearing, issued 1/29/06; Proof of Service; Answer; the testimony of the witnesses; and the following exhibits:

- Exhibit 1: Complaint
- Exhibit 2: Investigative Report Summary
- Exhibit 3: School District's Response
- Exhibit 4: Respondent's Response

REVIEWED Exhibit 5: Level One and/or Level Two Investigations  
OCTOBER 2006 BY Exhibit 6: Other pertinent materials.  
JULY 2007

#### FINDINGS OF FACT

1. Standard Iowa Teaching License No. 354166 was issued to the Respondent in 2002 and expires in July of 2006. The Respondent taught vocal music instruction to K-12 at Ventura Community School District in Ventura, Iowa from 2003 until her resignation on May 16, 2005.

2. In February of 2005 rumors were spreading throughout the Ventura community that the Respondent and a student, J.B., were involved in an inappropriate relationship. Two of the Respondent's co-workers heard these rumors and spoke with the Respondent about them. The Respondent denied anything inappropriate.

3. On May 9, 2005, a parent complained to the Ventura Community School District administration that her daughter had been disrespected by J.B. and the Respondent witnessed the incident and did not punish J.B.

After discussing this event the parent's daughter left the meeting. The parent then informed Superintendent Versteeg and Principal Lorene Dykstra, that her sixth grade son had come home and announced that J.B. had contracted a sexually transmitted disease from having sex with the Respondent.

4. After a brief discussion, Mr. Versteeg and Ms. Dykstra decided to immediately speak with the Respondent about this accusation. They split up to look throughout the high school. The Respondent's class was in session at the time. A junior-high class was watching a film but had no knowledge of where the Respondent was.

After looking for ten to fifteen minutes Mr. Versteeg was crossing the dark stage and noticed a piece of clothe sticking out of a storage room door. The storage room was dark. Mr. Versteeg walked over to the door and opened it. Inside the darkened storage room was the Respondent and J.B. J.B. was standing against the wall so he would not be seen.

Both the Respondent and J.B. were sent to the administration office. The Respondent stated that as she was walking across the stage J.B. accosted her and said he had to talk with her privately. J.B. then grabbed her and forced her into the

closet. They were in the closet only for a matter of seconds before Mr. Versteeg arrived.

J.B. was defensive when questioned, stating, "I'm the victim here." He explained that the Respondent asked him to go into the closet and he followed her.

5. Mr. Versteeg attempted to contact J.B.'s parents to determine what they knew. J.B.'s father instructed Mr. Versteeg that he should talk to C.B., his wife and J.B.'s stepmother. That evening Mr. Versteeg was able to speak with C.B. C.B. indicated that in February she had found multiple text messages on J.B.'s cell phone from the Respondent. While not immediately incriminating, the messages did appear to C.B. that there was more than a teach-student relationship between the Respondent and J.B.

C.B. was able to provide a transcript of instant messaging conducted between J.B. and the Respondent. Instant messaging is a means of conversing while both parties are on the internet. The transcripts also evidenced a relationship of more than just teacher-student between J.B. and the Respondent. C.B. testified that when confronted with the transcripts J.B. admitted that they were accurate and he admitted having sex with the Respondent.

When Mr. Versteeg brought the transcripts to the Respondent to question her about them the Respondent indicated that she was instructed not to talk with Mr. Versteeg. Mr. Versteeg then indicated that termination proceedings would be instigated against her.

6. The Respondent voluntarily resigned her position with the Ventura Community School District. She testified that she felt that the administration had made up its mind and she should just quit and leave the town.

7. At the hearing the Respondent adamantly denied that she had an inappropriate or sexual relationship with J.B. She attributed the rumors to the fact that Ventura is a small community and some of the freshmen girls had become jealous of the attention she gave some students. She acknowledged that she worked extensively with some students, J.B. being one of them. She does contact students by text message and by instant message. But she stated that the relationships never crossed the line.

The Respondent denied participating in the instant messaging transcripts that were entered into evidence. She also denied sending the numerous text messages found on J.B.'s cell phone in February. She stated that her conversations with students outside of school often involve informal counseling. She reiterated what she told Mr. Versteeg on May 9<sup>th</sup> as to why she was in the dark storage room with J.B. She indicated that J.B. was very insistent and he grabbed her and led her to the storage room. She now looks back in retrospect and realizes that she was wrong to let him lead her into the room and it that was her mistake.

The Respondent testified that her friendship with J.B. was misconstrued and the rumors were based on a misconception.

8. The Respondent's teaching ability was not called into question. Everyone who testified, including Mr. Versteeg, spoke glowingly of the Respondent's teaching qualifications.

9. Mr. Versteeg testified that he heard J.B. at the homecoming dance make a sexually suggestive statement to a teacher, not the Respondent. Mr. Versteeg verbally reprimanded J.B. on the spot for his inappropriate behavior.

J.B. was a senior during this school year. Multiple witnesses characterized him as a cocky, arrogant senior. Mr. Versteeg was convinced that J.B. as just as much the aggressor in this relationship as the Respondent.

The Investigator for the Board of Educational Examiners conducted a phone interview of J.B. J.B. denied that his relationship with the Respondent was inappropriate or sexual. He stated it was a normal student-teacher relationship.

#### CONCLUSIONS OF LAW

The legislature created the Iowa Board of Educational Examiners with the exclusive authority to develop a code of professional rights and responsibilities, practice, and ethics. Iowa Code section 272.2(1)(2005). The Board has promulgated a Code of Professional Conduct and Ethics at 282 IAC chapter 25.

##### I. Applicable Rules

The Board's rules provide that it is deemed unprofessional and unethical for any licensee to violate enumerated standards of professional conduct and ethics. 282 IAC

25.3. These standards prohibit sexual involvement or indecent contact with a student. "Sexual involvement includes, but is not limited to, the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus or breasts of a student; permitting or causing to fondle or touching the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17." 282 IAC 25.3(1)c.

The rules also provide that "licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:

- (3) Committing or soliciting any sexual or otherwise indecent action with a student or a minor.
- (4) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student.

282 IAC 25.3(1)(e).

## II. Discussion

The State has the burden of establishing, by a preponderance of the evidence, that the Respondent violated the cited Code of Professional Conduct and Ethics. See generally, Eaves v. Board of Medical Examiners, 467 N.W.2d 234 (Iowa 1991). In order to find a fact by a preponderance of the evidence, the fact finder must be convinced that the factual conclusion chosen is more likely than not. Koch, Administrative Law and Practice, Volume I, p. 491 (1985).

While parties have the right to cross-examine any witness who testifies, it is well-established law that hearsay evidence is admissible in administrative hearings. McConnell v. Iowa Dept. of Job Service, 327 N.W.2d 234, 236-37 (Iowa 1982); Schmitz v. Iowa Dept. of Human Services, 461 N.W.2d 603, 606-607 (Iowa App. 1990). The agency may rely on "the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs." Iowa Code S 17A.14(1).



While hearsay evidence is admissible, it may be considered less reliable and given less weight than direct evidence. If "the record is composed solely of hearsay evidence [it] must [be] examine[d] . . . closely in light of the entire record. . . . [the fact finder] must evaluate the quantity and quality of the evidence . . . to see whether it rises to necessary levels of trustworthiness, credibility, and accuracy required by a reasonably prudent person in the conduct of serious affairs." Schmitz at 607-08.

### III. Summary and Conclusions

This appeal boils down to one issue: whether the Respondent had an inappropriate and sexual relationship with J.B. The entire evidence of this relationship is based upon hearsay and rumor. As such, the evidence must be examined closely because the Respondent's license to teach in Iowa hangs in the balance.

The student in this case, J.B., was an aggressive and arrogant senior who acted as if he ruled the school. While many seniors may feel this way, few will take it to the extreme that J.B. did. The fact that Mr. Versteeg overheard J.B. make a sexually suggestive statement to a teacher at the homecoming dance speaks volumes to J.B.'s arrogance and inappropriate behavior.

The most damaging evidence against the Respondent is the transcript of the instant messages. Again, it must be repeated that this transcript is also hearsay. Hearsay is defined as, "A statement, other than one made by the declarant while testifying at the trial or hearing offered in evidence to prove the truth of the matter asserted." Black's Law Dictionary, Fifth Edition. West Publishing, St. Paul, 1979.

The transcript is confusing on many levels. The first few instant message conversations between the Respondent and J.B. verify the Respondent's testimony. The Respondent is counseling J.B. concerning girlfriend problems. The Respondent is acting as a detached voice of reason as J.B. whines about the fact that his girlfriend believes he has had sex with another student.

Over the next few days the discussion changes, always with J.B. instigating and pushing the conversation into sexual areas. The Respondent admonishes J.B. when his language gets coarse, but she does not take the position of a teacher and either straighten J.B. out or cut off the communication.

But for the transcripts of the instant messages the only other evidence of an inappropriate relationship was the fact that the Respondent and J.B. were found alone in a darkened storage room while the Respondent was supposed to be teaching. From the evidence presented the undersigned finds the Respondent's testimony to be more credible. J.B. saw the Respondent and aggressively directed her into the room. J.B.'s proclamation that "I'm the victim here" shows that he was trying to deflect any blame away from himself and onto the Respondent. J.B. directed the Respondent into the storage room and the Respondent went along to try to settle him down.

In light of the rumors that were circulating around the community this behavior, being in a darkened storage room with a student, seems inculpatory. However, when the entire circumstances are viewed the situation does not seem as sinister as at first blush.

The preponderance of the evidence established that the Respondent did not engage in an inappropriate romantic and/or sexual relationship with a student during the 2004-2005 school year. J.B.'s admission to his stepmother, C.B., that he had a sexual relationship with the Respondent is found not to be credible. J.B. later, when he was away from his tumultuous family situation, denied having an inappropriate or sexual relationship with the Respondent.

The only evidence that substantiates an inappropriate or sexual relationship is hearsay and rumor. In light of the Respondent's testimony the hearsay alone is found to be lacking in credibility.

This decision in no way exonerates the Respondent. She made many mistakes during this time-period. First was her use of text messages to contact a student. This may be a common form of communication among students, but text messages can be misinterpreted and can lead to miscommunication.

Next was the use of instant messaging. Again this may be common amongst students, but not a proper venue for a teacher to communicate with students. On top of that was the Respondent's lack of any attempt to dampen J.B.'s accelerating sexually based conversations. By allowing herself to be engaged in such banter puts her in a very poor light to say the least.


Lastly, the admitted mistake of allowing a student to force her into a darkened storage room. Her friends had warned her about

the rumors, and to allow herself to be forced into this situation by a student makes one question whether the Respondent wanted to be a friend or a teacher to the students.

**DECISION AND ORDER**

IT IS THEREFORE ORDERED that the State has failed to establish by a preponderance of the evidence the allegations contained in the Complaint filed against the Respondent.

Dated this 10<sup>th</sup> day of April, 2006.



John M. Priester

Administrative Law Judge

Iowa Department of Inspections and Appeals

Division of Administrative Hearings

Lucas State Office Building-Third Floor

Des Moines, Iowa 50319

cc: Christy A. Aumer, Staff Counsel (CERTIFIED)  
Iowa State Education Association  
777 Third Street  
Des Moines IA 50309-1301

Carolyn Olson, AAG  
DOT General Counsel

Dr. George J. Mauer  
Iowa Board of Educational Examiners  
Grimes State Office Building-Third Floor  
Des Moines, Iowa 50319

*Appeal Rights*

A proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party to the decision who is adversely affected. An appeal is initiated by serving a notice of appeal with the board within 60 days after issuance of the proposed decision. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief. 282 IAC 11.28.